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THE "THEORY" OF ANIMAL WELFARE ABOVE FROM THE RIGHT OF RELIGIOUS FREEDOM IN THE DIALOGUE BETWEEN THE CJEU AND ECtHR. A REALITY NOT YET RESOLVED

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THE RIGHT OF RELIGIOUS FREEDOM IN THE DIALOGUE BETWEEN THE CJEU AND ECtHR. A REALITY NOT YET RESOLVED

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Abstract: this work deals with a very difficult and demanding topic, that is, of animal welfare, given that it has been discussed in two courtrooms and then at the domestic level in super partes courts, such as the Court of Justice of the European Union and the European Court of Human Rights. The topic of freedom of religion, slaughter of meat for non-religious believers, protection of human rights and a turning point in recent years at the European and global level of animal welfare as a general theme are topics that are not yet definitively concluded by the judges.

Keywords: Animal welfare; Freedom of Religion; Religious rituals; European Union law; ECHR; ECtHR; CJEU; CFREU;

protection of human rights; slaughter of meat; rights of the non-Orthodox population; Committee of the UN; restrictions on freedom of expression and religion; discrimination; freedom of expression.

INTRODUCTION

With the Executief van de Moslims van België and others v. Belgium ruling of 13 February 2024[1], from the European Court of Human Rights (ECtHR), we are faced with Art. 9 of the European Convention of Human Rights (ECHR) (Sudre, 2021; Villiger, 2023). For the first time we have references from judges on animal welfare and restrictions on freedom of religion based on paragraph 2, of this article (Sudre, 2021). These are also references to public morality given the judicial process that was followed after the constitutional court of Belgium of 2018 and the limitations obtained on freedom of religion and the content obtained to arrive at a final sentence.

It was already 2009 when the Council adopted the relevant

[1] https://hudoc.echr.coe.int/eng#{%22appno%22:[%2216760/22%22]}

Regulation 1099 of 18 November 2009[2]. This was placed within the European context and Member States the obligation of prevention for the killing of animals bred, detention for the production of food or of other products and depopulation for related operations. This is an obligation that concerned various categories of animals including those for scientific experiments and/or hunting according to Art. 4, par. 4 for preventive stunning which was practiced:

> "(...) to particular slaughter methods prescribed by religious rites, provided that the slaughter takes place in a slaughterhouse (...)".

The related regulation sought to break down and support Member States in obtaining and providing for the relevant effective, dissuasive, proportionate sanctions applicable to violations. According to Art. 26, par. 2 the national regulations guaranteed the highest level of animal protection and all the other rules foreseen by the same regulation. Rules which also concerned animals slaughtered for religious rites and those exempted

[2]Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing, OJ L 303, 18.11.2009, p. 1–30.

according to Art. 4, par. 3 from the obligation that had to do with the prior stunning.
The three autonomous regions of the Belgian federation, i.e. Flanders and Wallonia during 2017 and 2018, had the legislative power in the animal sector and established according to Art. 26, par. 2 a ritual slaughter which did not occur without stunning the animals. The relevant decrees as an exception provided that animals killed for ritual slaughter were thus exempt from stunning. The religious diversity that has enriched the Belgian federation as well as regional legislators have taken into consideration the balance of freedom and religion for the protection of animal welfare both for preventive stunning and for scientific studies, where the animal and healthy killing respects the spirit of ritual slaughter. Thus. freedom of religion is affected. Indeed, the faithful who are interested can turn to an external forum without another legislative intervention and without compromising the exercise in a disproportionate way.
Organizations representing the Muslim communities and especially those of the Jewish faith that were based in Belgium have turned to the constitutional court regarding

the legitimacy of the decrees and especially of Art. 4 and 26, par. 2 of the Regulation 1099 based on the relationship with international, supranational obligations that bind the European state. According to the appellants, the decrees that were challenged prevented the supply of meat from animals ritually slaughtered as a fundamental right. These are rights that are violated by the regulation based on principles of equality, discrimination due to religious diversity different from that of ritual for animals and the illogical treatment that was reserved for people who killed animals during activities. The protection of animals was legitimate according to the rules of the EU given that it was based on Art. 26, par. 2 and was respectful of the right balance for freedom and religion, as well as the general interest in the protection of animal welfare. So they addressed via preliminary reference to the Court of Justice of the European Union (CJEU).

TOWARDS THE PRELIMINARY RULING

With the case C-336/19, Centraal Israëlitisch Consistorie van België and others of 17 December 2020 (Pingel, 2022; Di

Francesco Maesa, 2023)[3] the CJEU took into consideration some salient points for the related questions posed to the Belgian consultation. In particular, the judge a quo has taken into consideration Art. 26, par. 2, which allowed at domestic level the related derogation that was provided for by Art. 4, par. 4. According to the judge it was an exception and as a consequence violated Art. 10, par. 1 of the Charter of the Fundamental Rights of the European Union (CFREU) (Peers and others, 2021). This was based on the protection of freedom of thought, conscience, religion, the principles that are contained in the equality that is before law and the prohibition of discrimination respecting cultural, religious and linguistic diversity with a favorable manner for the relative treatment granted to activities that have to do with the killing of animals (Verniers, 2024).

The CJEU stated that:

> "(...) national legislation is admissible which, adopted in accordance with Art. 26, par. 2, it raises the welfare of animals, prohibiting their killing without prior stunning in the context of ritual slaughter (...)".

[3]CJEU, C-336/19, Centraal Israëlitisch Consistorie van België and others of 17 December 2020, ECLI:EU:C:2020:1031, not yet published.

Art. 4, par. 4, allows as an exception ritual slaughter without prior stunning (par. 43), with the aim of guaranteeing respect for freedom of religion protected by Art. 10 of the Charter, whereas, however, the general rule is that the animals are killed after stunning.

This exception must be measured in light not only of the religious diversity, that characterizes the societies of the individual Member States, but also of the growing social feeling on the matter of animal welfare.

Therefore, the Regulation 1099 grants a certain level of subsidiarity to each Member State (par. 45). In fact, it allows the formation of new legislation, at a national level, according to the social demands expressed. In other words, Art. 26, par. 2, allows to "derogate from the exemption" provided for by Art. 4, par. 4, of the Regulation 1099, which, therefore, cannot be considered absolute. It affects the supply of meat slaughtered according to religious ritual, since such a restriction would excessively affect freedom of religion in the external forum. It cannot, therefore, be prohibited or hindered, the release of meat, slaughtered according to lower animal protection standards, circulating in the EU single market. It seems to indicate

that the single market can offer a de facto remedy to the disadvantage caused by more stringent regional regulations on animal protection.

In fact, in Flanders and Wallonia the meat obtained from animals ritually slaughtered without prior stunning can come from Brussels-Capital (third federated region, which has not yet legislated pursuant to Art. 26, par. 2), from other Member States of the EU, as well as from third countries whose meat has been imported into the single market. Animal welfare is an EU "value" expressed by Art. 13 TFEU (par. 40).

This primary rule refers to a provision of general application - among the various provided for in Title II TFEU - according to which the EU and the Member States take full account of the welfare of animals as sentient when they formulate and implement European policies in the fields of agriculture, fisheries, transport, the internal market, research and technological development. Moreover,

> "(...) the protection of animal welfare constitutes an "objective of general interest" in the EU emerges from the jurisprudence of the Court (...)" (para. 63).

Freedom of religion, according to Art. 10 CFREU, (Peers and others, 2021) is of the same spirit with Art. 9 ECHR (Villiger, 2023) and the minimum standard for the protection of rights that are equivalent according to restrictions on freedom in a similar way and as provided by Art. 9, par. 2 ECHR (Sudre, 2021) and Art. 52, par. 1 CFREU as well as the limitations in line with the exercise of the freedoms recognized by the CFREU itself (Peers and others, 2021) and provided for by the law that respects the content of the rights and freedoms.

The CJEU continued to state that according to the:

> "(...) principle of proportionality, limitations may be made to such rights and freedoms only where they are necessary and effectively respond to objectives of general interest recognized by the Union or to the need to protect the rights and the freedoms of others (...) the regional decrees under scrutiny affect freedom of religion, they fall within the scope of application of Art. 10 of the Charter and, therefore, its legitimacy and necessity must be assessed in light of Art. 52, par. 1, in relation to Art. 13 TFEU (...)"

the disputed preventive stunning obligation meets these requirements.

In fact, it is foreseen by law and poses a measured interference with freedom of religion, since it does not prohibit ritual slaughter, but affects "an aspect of the specific ritual act" in order to accommodate it to the minimum necessary to avoid the suffering of the animal

> "(...) reflects the need to balance fundamental rights and EU principles that may be competing on the same issue (...)".

These principles enshrined in the treaties in question, such as, in this case, the right guaranteed in Art. 10 of the Charter and animal welfare enshrined in Art. 13 TFEU (Blanke, Mangiamelli, 2021). The assessment of compliance with the principle of proportionality must be carried out in compliance with the necessary conciliation between the requirements related to the protection of the different rights and principles in question and in a fair balance between them.

Thus, the legitimacy and is a necessity for the Belgian decrees that took into account the margin of discretion, that was granted to the states parties to the ECtHR, as necessary limits for the restriction of freedom on religion that are also based on previous jurisprudence from the

ECtHR itself in the H.S.H. v. France case of 1 July 2014.
This, in this regard, affirmed that a:

> "(...) margin of appreciation, however, goes hand in hand with a European supervision embracing both the law and the decisions applying it. The Court's task is to determine whether the measures taken at national level were justified (...)" (Villiger, 2023).

These are limits that are not based on a national law but by force of circumstances on elastic notions that avoid excesses, the rigidity of a social evolution, where jurisprudential practice has integrated the provisions, that are mostly adopted by the ECtHR itself through its own jurisprudence. In our case as well as in the Islamic veil we are faced with a political task, as a topic of disputes and claims which have influenced the evolution of the relevant decision, where the general interest as well as the need for security comes first. Accordingly, the principle of proportionality it limits itself to observing that discrimination is now a reality remaining without punishment many times.
This is a clear position which was also discreetly taken up by the CJEU where it was stated that:

> "(...) the margin of discretion thus granted to Member States in the absence of consensus at Union level must however go hand in hand with a European control consisting, in particular, in verifying whether the measures adopted at national level are justified in principle and whether they are proportionate (...) the proportionality of stricter national legislation is ascertained which, by accommodating the growing social feeling, pursues the greater animal welfare (paras. 70, 71 and 77), also taking into account that interested believers can obtain ritually slaughtered meat from the Brussels-Capital Region and through the single market (para. 78) (...)".

The CJEU has taken into practice the Regulation 1099 as an act of application, which concerned production activities and cultural and sporting events, allowing thus the production of meat in an economical and less significant way. These are activities that exempted the obligation from stunning. They were practiced with animals because the conditions were carried out were different from those practiced by slaughterhouses.

The regulation 1099 was not presented in a discriminatory manner and against cultural, religious and linguistic

diversity, Art. 22 CFREU (Peers and others, 2021), despite the fact that it did not present aspects of a secondary act to exempt the obligation of preventive stunning according to the killing of animals in the context of cassia, fishing and cultural and sporting events.

The Belgian Constitutional Court, after the relevant preliminary ruling, took into consideration the international obligations and the supranational level, arriving at the conclusion as expected that the two Belgian decrees are legitimate, repeating, as was normal, the reasoning of the CJEU.

The thought of proportionality that interfered with freedom of religion and ritual slaughter was not prohibited but was in accordance to the legitimate objective of protecting animal welfare.

The conclusions of the bans, that are in line with the principles of the ECHR and Art. 22, internationally respected religious freedom and the cultural diversity of the EU.

The Belgian constitutional court did not deny that freedom of thought and of religion did not have to do with the separation between state and church as well as the

neutrality of religions had to do with the obligation of an ideological, religious precept in the laws of this state. Accordingly, the annulment appeals which are brought against the contested decrees and in line with the sentences no. 117 and 118 of 30 September 2021 are rejected (Vanbelligen, 2021; Wattier, 2022).

TOWARDS THE ECtHR

After the ruling of the Belgian constitutional court, the appellants decided to rely on Art. 9 and 14 ECHR given that the ECtHR confirmed the relative obligation of preventive stunning in the case of ritual slaughter, which constituted a legitimate and proportional limit of Art. 9, par. 2 ECHR (Villiger, 2023) for the protection of public morals.

The regional authorities are not based on the margin of discretion but adopted a justified proportional measure, where the violation of Art. 9 ECHR concerning the freedom of religion in domestic law is verified according to the requirements of Art. 8, par. 2 ECHR.

The regulations that are decided in the case, are noted by the EctHR, which has stated that:

> "(...) do not prohibit ritual slaughter, but provide that the killing of the animal can only take place after reversible stunning, which leads to ritual death, when it is still alive, even if unconscious and insensitive to pain (par. 43 and 44) (...) the possibility of manifesting it also with practices and rites (...)","(...) (l)e témoignage, en paroles et en actes, se trouve lié à l'existence de convictions religieuses (...) (par. 65) (...)".

Accordingly, the ECtHR took a position based on external manifestations for religion and ritual slaughter as we also saw in the old case Cha'are Shalom Ve Tsedek v. France of 27 June 2000 which stated that religious freedom was protected by Art. 9 ECHR (Sudre, 2021) and did not include the right to carry out ritual slaughter and issue a certificate for faithful consumers, excluding thus interference with freedom of religion.

But here the situation is different since the applicants are dealing with the place of killing of the animal and the methods of killing their animal according to religious rules. The Strasbourg judges, in this regard, interpreted the regional decrees according to a specific aspect for ritual slaughter, stating that:

> "(...) conviction des requérants à cet égard n'atteindrait

> pas le niveau de force et d'importance nécessaire à la caractérisation d'une ingérence".

The principle of freedom protected by Art. 9ECHR (par. 84). The non-uniformity of views of the religious communities concerned regarding preventive stunning were considered by the:[4]

> "(...) la Cour rappelle que, tel qu'il est garanti par l'article 9 de la Convention, le droit à la liberté de pensée, de conscience et de religion ne vaut que pour les convictions qui atteignent un degré suffisant de force, de sérieux, de cohérence et d'importance. Cependant, dès lors que cette condition est remplie, le devoir de neutralité et d'impartialité de l'État est incompatible avec un quelconque pouvoir d'appréciation de sa part quant à la légitimité des convictions religieuses ou à la manière dont elles sont exprimées (...) En fait, la Cour n'est guère équipée pour se livrer à un débat sur la nature et l'importance de convictions individuelles. En effet, ce qu'une personne peut tenir pour sacr paraîtra peut-être absurde ou hérétique aux yeux d'une autre, et aucun

[4]European Parliamentary Research Service [EPRS], Religious slaughter. Reconciling animal welfare with freedom of religion or belief, Brussels, 2023, 14:
https://www.europarl.europa.eu/thinktank/en/document/EPRS_IDA(2023)751418

> argument d'ordre juridique ou logique ne peut être opposé à l'assertion du croyant faisant de telle ou telle conviction ou pratique un élément important de ses prescriptions religieuses (par. 85) (...)".

Killing an animal without prior stunning was a ritual aspect of strength, coherence for the faithful, that allows the ECtHR to interfere with the principle of freedom of religion. An interference that is evaluated according to the admissibility of the requirements that are provided for by Art. 9, par. 2 ECHR. The obligation of prior stunning for ritual slaughter introduced the contested decrees and the judges, thus, satisfied the relevant legal requirement. The legitimacy and the interference were connected with the exceptions which in an exhaustive and restrictive way, according to Art. 9, par. 2 ECHR, have protected animal welfare and religious freedom to an external forum, thus, linking animal welfare which was not guaranteed by the ECHR in an explicit and precise manner, as an exception provided for by Art. 9, par. 2 ECHR. So the logic was based on Art. 13 TFEU (Blanke, Mangiamelli, 2021), justifying the regional legislative intervention as protection of animal welfare and not on a rule of similar content which would

reconstruct the protection of animals within a system following the relevant jurisprudence.

The theory of animal welfare was a matter of general interest according to Art. 10 ECHR which has to do with the freedom of expression and also seen as a limit that indicated the reputation of the rights of others[5] protected by Art. 10 ECHR. Thus animal welfare allowed the legitimate interference of the right of assembly and association which was guaranteed by Art. 11 ECHR and moral protection.

As we have seen in the past from the ECtHR itself in the Friend and others v. United Kingdom case of 24 November 2009 in par. 94:

> "(...) animal welfare may allow legitimate interference in the right of assembly and association guaranteed by Art. 11 ECHR for moral protection purposes (...) concerning the ban on fox hunting (...) pursued the legitimate aim of moral protection, since designed to eliminate the hunting and killing of animals for sport in a manner which the legislature judged to cause suffering and to be morally and ethically objectionable (...)".

[5]ECtHR, PETA Deutschland v. Allemagne of 8 November 2012. Tierbefreier and V. v. Allemagne of 16 January 2014.

This is a position of reasoning where the protection of public morality according to the ex Art. 9, par. 2 ECHR does not only concern individuals but also the environment in which they live as well as the world of animals.
Morality has to do with changing social sentiment for the rights that are protected by the ECHR and the related restrictions which are also justified. The protection of animal welfare was also of significant importance for the states parties of the ECHR considering that the promotion of welfare as a moral value led regional legislators to adopt the decrees with large majorities. The ECtHR, in this regard, stated that:

> "(...) voit pas de raisons de remettre en cause ces considérations qui sont clairement exprimées et motivées dans les travaux préparatoires des deux décrets en cause (...)" (par. 98).

At this point, the ECtHR has followed the same path with the CJEU given that the Belgian constitutional court has respected the importance of animal welfare in democratic societies as a general interest of restrictions provided for by freedom of religion to an external forum. Especially, the ECtHR affirmed, on this, that:

> "(...) considère ainsi que la protection du bien-être animal peut être rattachée à la notion de "morale publique", ce qui constitue un but légitime au sens du paragraphe 2 de l'article 9 de la Convention (...)" (par. 101).

The ECtHR considered that the intervention was carried out with a legitimate objective and it responded to a social need of an urgent nature and in a proportional manner, in case the state parties justified the interference in a relevant and sufficient manner.

On this, the judges stated that:

> "(...) rôle fondamentalement subsidiaire du mécanisme de la Convention. Les autorités nationales jouissent d'une légitimité démocratique directe et, ainsi que la Cour l'a affirmé à maintes reprises, se trouvent en principe mieux placées que le juge international pour se prononcer sur les besoins et contextes locaux. Lorsque des questions de politique générale sont en jeu, sur lesquelles de profondes divergences peuvent raisonnablement exister dans un État démocratique, il y a lieu d'accorder une importance particulière au rôle du décideur national (...) Il en va en particulier ainsi lorsque ces questions concernent les rapports entre l'État et les religions (...)". (par. 104).

The Belgian decrees as a choice of interference in the freedom of religion to an external forum, was part of a

parliamentary process, given that the ECtHR did not enter into the merits of the exercise for the control of compliance with the rules of the ECHR and found an evaluation position according to the democratic methods of domestic law. Thus, the interference is limited, justified and proportionate according to public morality and to the margin of discretion recognized by the states parties. The quality of the decrees and the controls on the part of a super partes justice means the relative appreciation of the measures that are exercised according to the state's margin of discretion.

As regards the need for protection of religious freedom and taking into account the principle of proportionality of the ban, the constitutional judges gave the relevant reasons for the decisions, which respected the principles of the ECHR. So there was no reason to bring the case for another evaluation at the constitutional court. A double judicial review showed that the dialogue between national judges and the protection of human rights also comply with the principle of subsidiarity and the ECHR. According to the ECtHR:

> "(...) animal protection can be linked to public morality

> pursuant to Art. 9, par. 2, TEU (...) the contested decrees pose an obligation that constitutes a proportionate restriction on freedom of religion in an external forum, identified by the regional legislators on the basis of scientific data and in the exercise of the margin of discretion at their disposal, so as to guarantee a fair balance between the rights and interests at stake in the least invasive way possible for the individual freedom in question (...)" (paragraphs 123-124).

The ECtHR was based on scientific studies for the stunning of animals which causes the suffering of them at the moment of killing without depriving life. Freedom of religion is a just measure which cannot prohibit the ritual and the suffering of the animal but an evaluation of the need in a proportional way, where the compatibility of preventive stunning with the rules of ritual slaughter do not have to do with the results of the judgments and parliamentary work.

In other words, for the ECtHR, there is no violation of Art. 14 ECHR. In connection with Art. 9 ECHR (Sudre, 2021) the complaints have to do with double discrimination which concerned the treatment of hunting and fishing and the related practice of killing animals and the obligation of

preventive stunning. The related bans forced the faithful to consume meat that they imported and which cost more, whereas consumers were not bound to the same religious precepts of consuming fresh and locally sourced meat. The form of discrimination was not discriminatory for the faithful and practitioners of hunting and fishing who did not have a level of comparison with each other but were treated differently. As a consequence, the killing of animals took place from a butcher and the fishing of killing from a wild context where preventive stunning was not possible. The breeding of fish in an aquatic environment was different from that of butchers and the applicants are not found in the same analogous and comparable situation due to the complaints of a discriminatory nature.

Therefore, the ECtHR made the distinction in access to meat between faithful and people who were not bound by religious precepts where slaughter was not practiced without prior stunning. The ritual slaughter was reversible according to religious rules and did not affect the supply of fresh and local meat, therefore, as stated by the ECtHR, does not even register the alleged different position among the faithful concerned, since the different nature of the

relevant food precepts:

> "(...) "ne suffit pas pour considérer que les croyants juifs et les croyants musulmans se trouvent dans des situations sensiblement différentes par rapport à la mesure litigieuse au regard de la liberté religieus" (...)" (par. 150).

CONCLUSIONS

The reasoning of the ECtHR was based on the identification of animal welfare as an exception to freedom of religion to an external forum within the possible limits of freedom of religion according to art. 9, par. 2 ECHR in a different way from the Cha'are Shalom Ve Tsedek case of 2000 which considered ritual slaughter as a rite where animal welfare also imposes restrictions on freedom of religion and links the freedom of religion with the general-oriented animal welfare of the ECtHR and the ECHR. The obligation of preventive stunning was adopted by several states parties, therefore, the faithful did not decide to take the same path as those appellants of Belgium. This is a point that confirms that the theory of animal welfare for the jurisprudence of the ECtHR has a nature of general interest

considering the social feeling, the restrictions of the rights protected by the ECHR, assuming thus a general lack for the protection of animals, where evaluating subsidiarity also concerns the legislative procedure which was a process based on a democratic level with jurisdictional controls adequate to a growing feeling. It is in accordance with the spirit of Art. 9 ECHR, as a support for thoughtful arguments based on the relevant scientific data.

Protecting animals is an important foundation of a social nature and of legal protection where the domestic framework and national initiatives have played a very important role in the matter. Therefore, the CJEU underlined that the objective of the regulation was the one based on Art. 13 TFEU (Blanke, Mangiamelli, 2021), where the protection of animals is important for the balance of freedom of religion, reaching a fair balance for the qualification of animal welfare. This is a general issue that reflects the relative silence of the ECHR which responded to the assessment of the increase social welfare for animals.

The form of personal belief is comparable with Art. 9 ECHR (Villiger, 2023) and Art. 10 CFREU (Peers and others, 2021)

in the sector of freedom of religion, where the variety of forms help a sufficiently precise, coherent degree for the manipulation of products of animal origin as we have also seen in the W. v. Unite Kingdom case of 10 February 1993 where it was stated in par. 102 that:

> "(...) n'est dès lors pas nécessaire de déterminer si, ainsi que la Cour constitutionnelle l'a jugé, la mesure litigieuse peut également passer pour viser la protection des droits et libertés des personnes qui accordent une place au bien-être animal dans leur conception de la vie (...)".

Thus, animal welfare is presented as an added value that finds ample space for interpretation within Art. 2 TEU given that respect for fundamental rights have a fundamental value for the Union. Moreover, according to Art. 13 TFEU the protection of animals has as its legitimate objective of general interest what we have also seen from the CJEU[6].

Equally important is Regulation 1/2005[7] on the protection

[6]GC, T-526/10, Inuit Tapiriit Kanatami and others v. Commission of 25 April 2013, ECLI:EU:C:2013:215, published in the electronic Reports of the cases, par. 42. C-100/08, Commission v. Belgium of 10 September 2009, ECLI:EU:C:2009:537, I-00140, par. 91.

[7]Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection

of animals, Regulation n. 1007/2009 on trade in the single market of products and Directive no. 63/2010[8] on the protection of animals. Already, since 2014, the WTO has also expressed its opinion regarding the hunting of seals for commercial purposes, stating that:

> "(...) evidence as a whole sufficiently demonstrates that animal welfare is an issue of ethical or moral nature in the European Union (...)"[9]

thus confirming that the trade in seal products, within the scope of the EU, has a social nature concerning the killing methods which are often ferocious.

Within this context, in 2023 the Commission presented two legislative proposals[10] for the protection of animals that

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of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97, OJ L 3, 5.1.2005, p. 1-44.

[8]Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the protection of animals used for scientific purposes, OJ L 276, 20.10.2010, p. 33-79.

[9]WTO, Appellate Body: DS: 400: AB Reports of 22 May 2014, par. 131: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds400_e.htm

[10]Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the protection of animals during transport and related operations, amending Council Regulation (EC) No 1255/97 and repealing

are bred for commercial purposes, a generic one where animal welfare is now an important topic as can be seen from popular initiatives of the ICE: “end the cage age” on illegal farming[11] and “Fur Free Europe”. The European Commission also presented a related communication[12] for continuous commitment work for the next steps of legislative interventions on the environmental impact and of fur farming as well as the possibility of introducing the related ban on fur farming and sale of products containing their own fur in the single market.

The EU has constituted one of the elements where ritual slaughter should also undergo limits in the context of religious freedom to an external forum and in a proportional manner considering that the Orthodox faithful obtain supplies from a single market such as that of Brussels to carry out ritual slaughter in a manner direct

Council Regulation (EC) No 1/2005, COM/2023/770 final. Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the welfare of dogs and cats and their traceability. COM/2023/769 final

[11] https://citizens-initiative.europa.eu

[12] C/2023/8362 of 21 December 2023: https://citizens-initiative.europa.eu/sites/default/files/2023-12/C_2023_8362_EN.pdf

as well as the related certification as an aspect of freedom of religion. The ECtHR stated in this regard that:

> "(...) the ritually slaughtered meat could come from neighboring EU Member States (...) did not nullify the argument, given that it was re-proposed during the long litigation examined here with regard to the extent of the proportionality of the interference with freedom of religion (...)" (art. 65).

The same line was also obtained from the CJEU. The difficulties of consuming meat which was in accordance with the possibility that other regions or countries with prior stunning imposed constituted a solution for the Orthodox faithful. As a consequence, the single market allowed the supply of nature appropriate. The appellants did not demonstrate, above all, to the ECtHR that access to slaughtered meat linked to one's religion became an impediment after the decrees obtained. The consumption of meat, thus, became more expensive and laborious. But not a reality valid for all Member States of the EU.

The topic also includes a fight for the coming years regarding the single market of the EU as a special function for religious freedom in connection with animal slaughter.

It is an old reality but also a very complex topic for the courtrooms. Perhaps from the European point of view the topic and how it was addressed by the CJEU was completely closed even if it did not satisfy the appellants and the open social arguments where in a determined way the arguments show to partially resolve the non-Orthodox faithful as stated by the ECtHR in merit:

> "(...) la Convention n'envisage pas la possibilité d'engager une actio popularis aux fins de l'interprétation des droits reconnus dans la Convention; elle n'autorise pas non plus les particuliers à se plaindre d'une disposition de droit interne simplement parce qu'il leur semble, sans qu'ils en aient directement subi les effets, qu'elle enfreint la Convention (...)" (art. 57).

The Committee of the UN gave an evaluation on the matter confirming that it is not so suitable to take a position on the matter for a topic that has already been decided by two impartial courts. Already in the Genero v. Italy case, the UN Committee established that the ban on the use of the niqab was a limitation of freedom of religion according to pars. 18 and 26 of the pact of 1966. The Committee of the UN also intervened with the same complaint at the ECtHR where the decision of non-admissibility found a position

for the Committee to express its opinion on:

> "(...) determine with certainty that the case presented by the author had already been the subject of a consideration, even limited, of the merits (...)"[13].

This is a road of no return where the question of deciding on Islamic slaughter can continuously create complaints from various appellants in the European context, continuously provoking a judicial process in various independent courts without arriving at definitive conclusions given that religious freedom is not a topic completely connected with slaughter but there are economic and power reasons that make the topic difficult to discuss at a European and global level.

[13]Committee of the UN: Hebbadj v. France, 2807/2016, 17-10-2018, par. 6: https://juris.ohchr.org/casedetails/3541/en-US. Yaker v. France, 2747/2016, 7-12-2018, par. 6: https://juris.ohchr.org/casedetails/2547/en-US

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